

HOUSE BILL 473

E4

(0lr0184)

ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by **The Speaker (By Request – Administration) and Delegates Busch, Vallario, Rosenberg, Ali, Anderson, Barkley, Barnes, Bartlett, Barve, Beidle, Branch, Bromwell, Cardin, Carr, Conway, Davis, DeBoy, Doory, Dumais, Dwyer, Eckardt, Elmore, Feldman, Frank, Frick, Frush, Gaines, Gilchrist, Glenn, Gutierrez, Guzzone, Haddaway, Hammen, Haynes, Healey, Hecht, Hixson, Holmes, Howard, Hubbard, Ivey, Jennings, Jones, Kaiser, Kelly, King, Kirk, Kramer, Lee, Levi, Levy, Love, Malone, Manno, Mathias, McComas, McConkey, McDonough, McHale, McIntosh, Miller, Montgomery, Morhaim, Murphy, Niemann, O'Donnell, Oaks, Olszewski, Pena-Melnyk, Proctor, Ramirez, Reznik, Rice, Ross, Rudolph, Shewell, Smigiel, Stein, Stifler, Tarrant, Taylor, V. Turner, Valderrama, Vaughn, ~~and Walker~~ Walker, and Conaway**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

- 1 AN ACT concerning
- 2 **Criminal Procedure – Sexual Offenders – Lifetime Supervision**
- 3 FOR the purpose of repealing the requirement that the Maryland Parole Commission
- 4 administer extended sexual offender parole supervision; adding certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 hearings related to lifetime sexual offender supervision to the list of subsequent
 2 proceedings for which the State's Attorney is required to provide a certain notice
 3 to a certain victim or victim's representative; altering certain provisions relating
 4 to extended sexual offender supervision of certain offenders; altering the term
 5 for certain extended sexual offender supervision; requiring a sentence for
 6 certain persons to include a term of lifetime sexual offender supervision;
 7 authorizing a sentence for certain persons to include a term of lifetime sexual
 8 offender supervision; altering the term of lifetime sexual offender supervision;
 9 establishing that lifetime sexual offender supervision is imposed on a defendant
 10 for a crime or act committed on or after a certain date; requiring a certain
 11 sentencing court or juvenile court to impose certain conditions of lifetime sexual
 12 offender supervision and to advise certain persons of the conditions of lifetime
 13 sexual offender supervision; requiring the sentencing court or juvenile court to
 14 order a presentence investigation under certain circumstances; requiring the
 15 sentencing court to order a certain risk assessment under certain circumstances;
 16 authorizing a certain sentencing court or juvenile court to adjust certain
 17 conditions of lifetime sexual offender supervision under certain circumstances;
 18 ~~clarifying that the imposition or adjustment of special conditions of lifetime~~
 19 ~~sexual offender supervision is a subsequent proceeding under a certain~~
 20 ~~provision of law;~~ establishing a certain offense and penalty for violation of
 21 lifetime sexual offender supervision; authorizing certain procedures for
 22 violations of lifetime sexual offender supervision; ~~requiring certain judges to~~
 23 ~~hear certain violations and certain petitions;~~ ~~authorizing~~ ~~requiring certain~~
 24 ~~judges to hear certain violations and certain petitions;~~ prohibiting a certain
 25 sentencing court ~~to deny~~ from denying a certain petition under certain
 26 circumstances; providing for the discharge of certain persons from lifetime
 27 sexual offender supervision under certain circumstances; ~~clarifying that certain~~
 28 ~~proceedings are a subsequent proceeding under a certain provision of law;~~
 29 requiring a certain sentencing court to hear and adjudicate certain petitions;
 30 altering the composition of a certain sexual offender management team;
 31 requiring certain progress reports of a certain sexual offender management
 32 team; authorizing the Department of Public Safety and Correctional Services to
 33 adopt certain regulations; making a certain technical correction; deleting
 34 certain terms; making certain conforming changes; and generally relating to
 35 sexual offender supervision.

36 BY repealing and reenacting, with amendments,
 37 Article – Correctional Services
 38 Section 7–206
 39 Annotated Code of Maryland
 40 (2008 Replacement Volume and 2009 Supplement)

41 BY repealing and reenacting, with amendments,
 42 Article – Criminal Procedure
 43 Section ~~11–701~~ 11–503, 11–701, and 11–723 through 11–726
 44 Annotated Code of Maryland
 45 (2008 Replacement Volume and 2009 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Correctional Services**

4 7–206.

5 The Commission shall:

6 (1) evaluate information on the activities of parolees that the Division
7 of Parole and Probation reports;

8 (2) issue warrants or delegate to the Director of the Division of Parole
9 and Probation the authority to issue warrants to retake parolees who are charged with
10 violating a condition of parole;

11 (3) review and make recommendations to the Governor:

12 (i) concerning parole of an inmate under a sentence of life
13 imprisonment; and

14 (ii) if requested by the Governor, concerning a pardon,
15 commutation of sentence, or other clemency;

16 (4) establish and modify general policy governing the conduct of
17 parolees; AND

18 (5) arrange for psychiatric or psychological examination of applicants
19 for parole whenever the Commission believes that an examination will better enable it
20 to decide on the advisability of parole and include the expense for the examination in
21 its annual budget[]; and

22 (6) administer extended sexual offender parole supervision under Title
23 11, Subtitle 7 of the Criminal Procedure Article].

24 **Article – Criminal Procedure**

25 11–503.

26 (a) In this section, “subsequent proceeding” includes:

27 (1) a sentence review under § 8–102 of this article;

28 (2) a hearing on a request to have a sentence modified or vacated under
29 the Maryland Rules;

1 (3) in a juvenile delinquency proceeding, a review of a commitment
2 order or other disposition under the Maryland Rules;

3 (4) an appeal to the Court of Special Appeals;

4 (5) an appeal to the Court of Appeals; [and]

5 (6) A HEARING ON AN ADJUSTMENT OF SPECIAL CONDITIONS OF
6 LIFETIME SEXUAL OFFENDER SUPERVISION UNDER § 11-723 OF THIS TITLE OR A
7 HEARING ON A VIOLATION OF SPECIAL CONDITIONS OF LIFETIME SEXUAL
8 OFFENDER SUPERVISION OR A PETITION FOR DISCHARGE FROM SPECIAL
9 CONDITIONS OF LIFETIME SEXUAL OFFENDER SUPERVISION UNDER § 11-724 OF
10 THIS TITLE; AND

11 (7) any other postsentencing court proceeding.

12 (b) Following conviction or adjudication and sentencing or disposition of a
13 defendant or child respondent, the State's Attorney shall notify the victim or victim's
14 representative of a subsequent proceeding in accordance with § 11-104(e) of this title if:

15 (1) before the State's Attorney distributes notification request forms
16 under § 11-104(c) of this title, the victim or victim's representative submitted to the
17 State's Attorney a written request to be notified of subsequent proceedings; or

18 (2) after the State's Attorney distributes notification request forms
19 under § 11-104(c) of this title, the victim or victim's representative submits a
20 notification request form in accordance with § 11-104(d) of this title.

21 (c) (1) The State's Attorney's office shall:

22 (i) notify the victim or victim's representative of all appeals to
23 the Court of Special Appeals and the Court of Appeals; and

24 (ii) send an information copy of the notification to the office of
25 the Attorney General.

26 (2) After the initial notification to the victim or victim's representative
27 or receipt of a notification request form, as defined in § 11-104 of this title, the office of
28 the Attorney General shall:

29 (i) notify the victim or victim's representative of each subsequent
30 date pertinent to the appeal, including dates of hearings, postponements, and decisions
31 of the appellate courts; and

1 (ii) send an information copy of the notification to the State's
2 Attorney's office.

3 (d) A notice sent under this section shall include the date, the time, the
4 location, and a brief description of the subsequent proceeding.

5 11-701.

6 (a) In this subtitle the following words have the meanings indicated.

7 (b) "Board" means the Sexual Offender Advisory Board.

8 (c) "Child sexual offender" means a person who:

9 (1) has been convicted of violating § 3-602 of the Criminal Law
10 Article;

11 (2) has been convicted of violating any of the provisions of the rape or
12 sexual offense statutes under §§ 3-303 through 3-307 of the Criminal Law Article for
13 a crime involving a child under the age of 15 years;

14 (3) has been convicted of violating the fourth degree sexual offense
15 statute under § 3-308 of the Criminal Law Article for a crime involving a child under
16 the age of 15 years and has been ordered by the court to register under this subtitle;

17 (4) has been convicted in another state or in a federal, military, or
18 Native American tribal court of a crime that, if committed in this State, would
19 constitute one of the crimes listed in items (1) and (2) of this subsection; or

20 (5) (i) has been adjudicated delinquent for an act involving a
21 victim under the age of 15 years that would constitute a violation of § 3-303, § 3-304,
22 § 3-305, or § 3-306 of the Criminal Law Article if committed by an adult; and

23 (ii) meets the requirements for registration under § 11-704(c) of
24 this subtitle.

25 (d) ["Commission" means the Maryland Parole Commission.

26 (e)] "Employment" means an occupation, job, or vocation that is full time or
27 part time for a period exceeding 14 days or for an aggregate period exceeding 30 days
28 during a calendar year, whether financially compensated, volunteered, or for the
29 purpose of government or educational benefit.

30 (f) "Extended parole supervision offender" means a person who:

31 (1) is a sexually violent predator;

1 (2) has been convicted of a violation of § 3–303, § 3–304, § 3–305, §
2 3–306(a)(1) or (2), or § 3–307(a)(1) or (2) of the Criminal Law Article;

3 (3) has been convicted of a violation of § 3–309, § 3–310, or § 3–311 of
4 the Criminal Law Article or an attempt to commit a violation of § 3–306(a)(1) or (2) of
5 the Criminal Law Article;

6 (4) has been convicted of a violation of § 3–602 of the Criminal Law
7 Article for commission of a sexual act involving penetration of a child under the age of
8 12 years; or

9 (5) has been convicted more than once of a crime as a child sexual
10 offender, an offender, or a sexually violent offender.]

11 **[(g)] (E)** “Local law enforcement unit” means the law enforcement unit in a
12 county that has been designated by resolution of the county governing body as the
13 primary law enforcement unit in the county.

14 **[(h)] (F)** “Offender” means a person who is ordered by a court to register
15 under this subtitle and who:

16 (1) has been convicted of violating § 3–503 of the Criminal Law
17 Article;

18 (2) has been convicted of violating § 3–502 of the Criminal Law Article
19 or the fourth degree sexual offense statute under § 3–308 of the Criminal Law Article,
20 if the victim is under the age of 18 years;

21 (3) has been convicted of the common law crime of false imprisonment,
22 if the victim is under the age of 18 years and the person is not the victim’s parent;

23 (4) has been convicted of a crime that involves soliciting a person
24 under the age of 18 years to engage in sexual conduct;

25 (5) has been convicted of violating the child pornography statute
26 under § 11–207 of the Criminal Law Article;

27 (6) has been convicted of violating any of the prostitution and related
28 crimes statutes under Title 11, Subtitle 3 of the Criminal Law Article if the intended
29 prostitute or victim is under the age of 18 years;

30 (7) has been convicted of a crime that involves conduct that by its
31 nature is a sexual offense against a person under the age of 18 years;

1 (8) has been convicted of an attempt to commit a crime listed in items
2 (1) through (7) of this subsection; or

3 (9) has been convicted in another state or in a federal, military, or
4 Native American tribal court of a crime that, if committed in this State, would
5 constitute one of the crimes listed in items (1) through (8) of this subsection.

6 **[(i)] (G)** (1) Except as otherwise provided in this subsection, “release”
7 means any type of release from the custody of a supervising authority.

8 (2) “Release” means:

9 (i) release on parole;

10 (ii) mandatory supervision release;

11 (iii) release from a correctional facility with no required period of
12 supervision;

13 (iv) work release;

14 (v) placement on home detention; and

15 (vi) the first instance of entry into the community that is part of
16 a supervising authority’s graduated release program.

17 (3) “Release” does not include:

18 (i) an escape; or

19 (ii) leave that is granted on an emergency basis.

20 **[(j)] (H)** “Sexually violent offender” means a person who:

21 (1) has been convicted of a sexually violent offense;

22 (2) has been convicted of an attempt to commit a sexually violent
23 offense; or

24 (3) (i) has been adjudicated delinquent for an act involving a
25 victim 15 years of age or older that would constitute a violation of § 3–303, § 3–304, §
26 3–305, or § 3–306 of the Criminal Law Article if committed by an adult; and

27 (ii) meets the requirements for registration under § 11–704(c) of
28 this subtitle.

1 **[(k)] (I)** “Sexually violent offense” means:

2 (1) a violation of §§ 3–303 through 3–307 or §§ 3–309 through 3–312 of
3 the Criminal Law Article;

4 (2) assault with intent to commit rape in the first or second degree or
5 a sexual offense in the first or second degree as prohibited on or before September 30,
6 1996, under former Article 27, § 12 of the Code; or

7 (3) a crime committed in another state or in a federal, military, or
8 Native American tribal jurisdiction that, if committed in this State, would constitute
9 one of the crimes listed in item (1) or (2) of this subsection.

10 **[(l)] (J)** “Sexually violent predator” means:

11 (1) a person who:

12 (i) is convicted of a sexually violent offense; and

13 (ii) has been determined in accordance with this subtitle to be at
14 risk of committing another sexually violent offense; or

15 (2) a person who is or was required to register every 90 days for life
16 under the laws of another state or a federal, military, or Native American tribal
17 jurisdiction.

18 **[(m)] (K)** “Supervising authority” means:

19 (1) the Secretary, if the registrant is in the custody of a correctional
20 facility operated by the Department;

21 (2) the administrator of a local correctional facility, if the registrant,
22 including a participant in a home detention program, is in the custody of the local
23 correctional facility;

24 (3) the court that granted the probation or suspended sentence, except
25 as provided in item (12) of this subsection, if the registrant is granted probation before
26 judgment, probation after judgment, or a suspended sentence;

27 (4) the Director of the Patuxent Institution, if the registrant is in the
28 custody of the Patuxent Institution;

29 (5) the Secretary of Health and Mental Hygiene, if the registrant is in
30 the custody of a facility operated by the Department of Health and Mental Hygiene;

1 (6) the court in which the registrant was convicted, if the registrant's
2 sentence does not include a term of imprisonment or if the sentence is modified to time
3 served;

4 (7) the Secretary, if the registrant is in the State under terms and
5 conditions of the Interstate Compact for Adult Offender Supervision, set forth in Title
6 6, Subtitle 2 of the Correctional Services Article, or the Interstate Corrections
7 Compact, set forth in Title 8, Subtitle 6 of the Correctional Services Article;

8 (8) the Secretary, if the registrant moves to this State and was
9 convicted in another state of a crime that would require the registrant to register if the
10 crime was committed in this State;

11 (9) the Secretary, if the registrant moves to this State from another
12 state where the registrant was required to register;

13 (10) the Secretary, if the registrant is convicted in a federal, military, or
14 Native American tribal court and is not under supervision by another supervising
15 authority;

16 (11) the Secretary, if the registrant is not a resident of this State and
17 has been convicted in another state or by a federal, military, or Native American tribal
18 court;

19 (12) the Director of Parole and Probation, if the registrant is under the
20 supervision of the Division of Parole and Probation; or

21 (13) the Secretary of Juvenile Services, if the registrant was a minor at
22 the time the act was committed for which registration is required.

23 **[(n)] (L)** "Transient" means a nonresident registrant who enters a county of
24 this State with the intent to be in the State or is in the State for a period exceeding 14
25 days or for an aggregate period exceeding 30 days during a calendar year for a purpose
26 other than employment or to attend an educational institution.

27 11-723.

28 (a) Except where a term of natural life without the possibility of parole is
29 imposed, a sentence for **[an extended parole supervision offender] THE FOLLOWING**
30 **PERSONS** shall include a term of **[extended] LIFETIME** sexual offender **[parole]**
31 supervision:

32 **(1) A PERSON WHO IS A SEXUALLY VIOLENT PREDATOR;**

1 (2) A PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF §
2 3-303, § 3-304, § 3-305, OR § 3-306(A)(1) OR (2), ~~OR § 3-307(A)(1) OR (2)~~ OF
3 THE CRIMINAL LAW ARTICLE;

4 (3) A PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF §
5 3-309, § 3-310, OR § 3-311 OF THE CRIMINAL LAW ARTICLE OR AN ATTEMPT TO
6 COMMIT A VIOLATION OF § 3-306(A)(1) OR (2) OF THE CRIMINAL LAW ARTICLE;

7 (4) A PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF §
8 3-602 OF THE CRIMINAL LAW ARTICLE ~~FOR THE COMMISSION OF A SEXUAL ACT~~
9 ~~INVOLVING PENETRATION OF~~ INVOLVING A CHILD UNDER THE AGE OF 12
10 YEARS; ~~AND AND~~

11 (5) A PERSON WHO IS REQUIRED TO REGISTER UNDER §
12 11-704(C) OF THIS SUBTITLE; AND

13 ~~(5) A PERSON WHO IS REQUIRED TO REGISTER UNDER §~~
14 ~~11-704(C) OF THIS ARTICLE SUBTITLE; AND~~

15 ~~(5) (6) (5) (6)~~ A PERSON WHO HAS BEEN CONVICTED MORE
16 THAN ONCE ARISING OUT OF SEPARATE INCIDENTS OF A CRIME ~~AS A CHILD~~
17 ~~SEXUAL OFFENDER, AN OFFENDER, OR A SEXUALLY VIOLENT OFFENDER~~ THAT
18 REQUIRES REGISTRATION AS A SEX OFFENDER UNDER THIS SUBTITLE.

19 (B) EXCEPT WHERE A TERM OF NATURAL LIFE WITHOUT THE
20 POSSIBILITY OF PAROLE IS IMPOSED, A SENTENCE FOR A VIOLATION OF §
21 3-307(A)(1) OR (2) MAY INCLUDE A TERM OF LIFETIME SEXUAL OFFENDER
22 SUPERVISION.

23 ~~(C)~~ (1) ~~The~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
24 SUBSECTION, THE term of [extended] LIFETIME sexual offender [parole] supervision
25 [for a defendant sentenced] IMPOSED ON A PERSON FOR A CRIME COMMITTED on
26 or after ~~August 1, 2006~~ OCTOBER 1, 2010, shall:

27 ~~(I)~~ (I) be [a minimum of 3 years to a maximum of] a term of life;
28 and

29 ~~(II)~~ (II) commence on the expiration of the later of any term of
30 imprisonment, probation, parole, or mandatory supervision.

31 (2) FOR A PERSON WHO IS REQUIRED TO REGISTER UNDER §
32 11-704(C) OF THIS SUBTITLE, THE TERM OF LIFETIME SEXUAL OFFENDER
33 SUPERVISION IMPOSED FOR AN ACT COMMITTED ON OR AFTER OCTOBER 1,
34 2010, SHALL:

1 (I) COMMENCE WHEN THE PERSON'S OBLIGATION TO
 2 REGISTER COMMENCES; AND

3 (II) EXPIRE WHEN THE PERSON'S OBLIGATION TO REGISTER
 4 EXPIRES, UNLESS THE JUVENILE COURT:

5 1. FINDS AFTER A HEARING THAT THERE IS A
 6 COMPELLING REASON FOR THE SUPERVISION TO CONTINUE; AND

7 2. ORDERS THE SUPERVISION TO CONTINUE FOR A
 8 SPECIFIED PERIOD OF TIME.

9 ~~(C)~~ (D) (1) THE FOR A SENTENCE THAT INCLUDES A TERM OF
 10 LIFETIME SEXUAL OFFENDER SUPERVISION, THE SENTENCING COURT, OR
 11 JUVENILE COURT IN THE CASE OF A PERSON WHO IS REQUIRED TO REGISTER
 12 UNDER § 11-704(C) OF THIS SUBTITLE, SHALL IMPOSE SPECIAL CONDITIONS OF
 13 LIFETIME SEXUAL OFFENDER SUPERVISION ON THE PERSON AT THE TIME OF
 14 SENTENCING, OR IMPOSITION OF THE REGISTRATION REQUIREMENT IN
 15 JUVENILE COURT, AND ADVISE THE PERSON OF THE LENGTH, CONDITIONS, AND
 16 CONSECUTIVE NATURE OF THAT SUPERVISION.

17 (2) BEFORE IMPOSING SPECIAL CONDITIONS, THE SENTENCING
 18 COURT OR JUVENILE COURT SHALL ORDER:

19 (I) A PRESENTENCE INVESTIGATION IN ACCORDANCE WITH
 20 § 6-112 OF THE CORRECTIONAL SERVICES ARTICLE; AND

21 (II) FOR A SENTENCE FOR A VIOLATION OF § 3-307(A)(1) OR
 22 (2), A RISK ASSESSMENT OF THE PERSON CONDUCTED BY A SEXUAL OFFENDER
 23 TREATMENT PROVIDER.

24 (3) THE CONDITIONS OF LIFETIME SEXUAL OFFENDER
 25 SUPERVISION MAY INCLUDE:

26 (I) MONITORING THROUGH GLOBAL POSITIONING
 27 SATELLITE TRACKING OR EQUIVALENT TECHNOLOGY;

28 (II) WHERE APPROPRIATE AND FEASIBLE, RESTRICTING A
 29 PERSON FROM LIVING IN PROXIMITY TO OR LOITERING NEAR SCHOOLS, FAMILY
 30 DAY CARE CENTERS, CHILD CARE CENTERS, AND OTHER PLACES USED
 31 PRIMARILY BY MINORS;

1 (III) RESTRICTING A PERSON FROM OBTAINING
2 EMPLOYMENT OR FROM PARTICIPATING IN AN ACTIVITY THAT WOULD BRING
3 THE PERSON INTO CONTACT WITH MINORS;

4 (IV) REQUIRING A PERSON TO PARTICIPATE IN A ~~CERTIFIED~~
5 SEXUAL OFFENDER TREATMENT PROGRAM;

6 (V) PROHIBITING A PERSON FROM USING ILLICIT DRUGS OR
7 ALCOHOL;

8 (VI) AUTHORIZING A PAROLE AND PROBATION AGENT TO
9 ACCESS THE PERSON'S PERSONAL COMPUTER TO CHECK FOR MATERIAL
10 RELATING TO SEXUAL RELATIONS WITH MINORS;

11 (VII) REQUIRING A PERSON TO TAKE REGULAR POLYGRAPH
12 EXAMINATIONS;

13 (VIII) PROHIBITING A PERSON FROM CONTACTING SPECIFIC
14 INDIVIDUALS OR CATEGORIES OF INDIVIDUALS; AND

15 (IX) ANY OTHER CONDITIONS DEEMED APPROPRIATE BY THE
16 SENTENCING COURT OR JUVENILE COURT.

17 (4) THE SENTENCING COURT OR JUVENILE COURT MAY ADJUST
18 THE SPECIAL CONDITIONS OF LIFETIME SEXUAL OFFENDER SUPERVISION, IN
19 CONSULTATION WITH THE PERSON'S SEXUAL OFFENDER MANAGEMENT TEAM.

20 ~~(5) THE IMPOSITION OR ADJUSTMENT OF SPECIAL CONDITIONS~~
21 ~~OF LIFETIME SEXUAL OFFENDER SUPERVISION IS A SUBSEQUENT PROCEEDING~~
22 ~~UNDER § 11-503(A) OF THIS ARTICLE.~~

23 11-724.

24 [(a) The Maryland Parole Commission shall:

25 (1) enter into and sign extended sexual offender parole supervision
26 agreements with registrants sentenced to supervision under § 11-723 of this subtitle
27 that set out specific conditions of supervision;

28 (2) hear and adjudicate cases of extended sexual offender parole
29 supervision violations; and

30 (3) impose sanctions for extended sexual offender parole supervision
31 violations, including additional restrictive conditions.]

1 **(A) A PERSON SUBJECT TO LIFETIME SEXUAL OFFENDER SUPERVISION**
2 **MAY NOT KNOWINGLY OR WILLFULLY VIOLATE THE CONDITIONS OF THE**
3 **LIFETIME SEXUAL OFFENDER SUPERVISION IMPOSED UNDER § 11-723 OF THIS**
4 **SUBTITLE.**

5 **(B) A PERSON WHO VIOLATES ANY CONDITIONS IMPOSED UNDER §**
6 **11-723 OF THIS SUBTITLE:**

7 **(1) FOR A FIRST OFFENSE, IS GUILTY OF A MISDEMEANOR AND ON**
8 **CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A**
9 **FINE NOT EXCEEDING \$5,000 OR BOTH; AND**

10 **(2) FOR A SECOND OR SUBSEQUENT OFFENSE, IS GUILTY OF A**
11 **FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING**
12 **10 YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH.**

13 **[(b)] (C)** Imprisonment for **[an extended]** A **LIFETIME** sexual offender
14 **[parole]** supervision violation is not subject to diminution credits.

15 **[(c)** Specific conditions of extended sexual offender parole supervision shall
16 commence upon release of the extended parole supervision offender from incarceration
17 or imposition of probation on the extended parole supervision offender and may
18 include:

19 (1) monitoring a registrant through global positioning satellite
20 tracking technology;

21 (2) where appropriate and feasible, restricting a registrant from living
22 in proximity to or loitering near schools, family day care centers, child care centers,
23 and other places primarily used by minors;

24 (3) restricting a registrant from obtaining employment or from
25 participating in an activity that would bring the registrant into contact with minors;

26 (4) requiring a registrant to participate in a certified sexual offender
27 treatment program;

28 (5) prohibiting a registrant from using illicit drugs or alcohol;

29 (6) authorizing parole agents to access the personal computer of a
30 registrant to check for material relating to sexual relations with minors;

31 (7) requiring a registrant to take regular polygraph examinations; and

1 (8) prohibiting a registrant from contacting specific individuals or
2 categories of individuals.]

3 (D) (1) A VIOLATION OF SUBSECTION (A) OF THIS SECTION DOES NOT
4 DISCHARGE A PERSON FROM LIFETIME SEXUAL OFFENDER SUPERVISION.

5 (2) ON RELEASE FROM A SENTENCE IMPOSED UNDER
6 SUBSECTION (B) OF THIS SECTION, A PERSON REMAINS ON LIFETIME SEXUAL
7 OFFENDER SUPERVISION, SUBJECT TO THE ORIGINAL TERMS OF SUPERVISION,
8 UNTIL DISCHARGED UNDER SUBSECTION ~~(C)~~ (F) OF THIS SECTION.

9 (E) DURING THE PERIOD OF LIFETIME SEXUAL OFFENDER
10 SUPERVISION, THE COURT MAY:

11 ~~(1) ON WRITTEN CHARGES UNDER OATH OR ON VIOLATION OF A~~
12 ~~CONDITION OF SUPERVISION, ISSUE A WARRANT REQUIRING THE PERSON~~
13 ~~UNDER SUPERVISION TO BE BROUGHT OR TO APPEAR BEFORE THE JUDGE~~
14 ~~ISSUING THE WARRANT;~~

15 ~~(I) TO ANSWER THE CHARGE OF VIOLATION OF CONDITIONS~~
16 ~~OF SUPERVISION; AND~~

17 ~~(II) TO BE PRESENT FOR THE SETTING OF A HEARING DATE~~
18 ~~FOR THAT CHARGE;~~

19 ~~(1) ON WRITTEN CHARGES UNDER OATH OR ON VIOLATION OF A~~
20 ~~CONDITION OF SUPERVISION, ISSUE A WARRANT REQUIRING THE PERSON~~
21 ~~UNDER SUPERVISION TO BE BROUGHT OR TO APPEAR BEFORE THE JUDGE~~
22 ~~ISSUING THE WARRANT;~~

23 ~~(I) TO ANSWER THE CHARGE OF VIOLATION OF CONDITIONS~~
24 ~~OF SUPERVISION; AND~~

25 ~~(II) TO BE PRESENT FOR THE SETTING OF A HEARING DATE~~
26 ~~FOR THAT CHARGE;~~

27 ~~(2) (2)~~ REMAND THE PERSON TO A CORRECTIONAL FACILITY
28 OR RELEASE THE PERSON WITH OR WITHOUT BAIL PENDING THE HEARING OR
29 ~~HEARING OR~~ DETERMINATION OF ~~THE A~~ THE A CHARGE OF VIOLATION OF A
30 CONDITION OF LIFETIME SEXUAL OFFENDER SUPERVISION ~~OF VIOLATION OF A~~
31 CONDITION OF LIFETIME SEXUAL OFFENDER SUPERVISION; AND

32 ~~(3) (2) (3) (2)~~ IF ~~AT THE HEARING~~ AT THE HEARING THE COURT
33 FINDS THAT THE PERSON ~~VIOLATED~~ COMMITTED A VIOLATION OF ~~VIOLATED~~

1 COMMITTED A VIOLATION OF A CONDITION OF SUPERVISION, IMPOSE A
 2 SENTENCE AS PRESCRIBED IN SUBSECTION (B) OF THIS SECTION.

3 ~~(F) (1) THE JUDGE WHO ORIGINALLY IMPOSED THE LIFETIME~~
 4 ~~SEXUAL OFFENDER SUPERVISION SHALL HEAR ANY CHARGE OF VIOLATION OF~~
 5 ~~CONDITIONS OF SUPERVISION.~~

6 ~~(2) IF THE JUDGE HAS BEEN REMOVED FROM OFFICE, HAS DIED~~
 7 ~~OR RESIGNED, OR IS OTHERWISE INCAPACITATED, ANOTHER JUDGE MAY ACT IN~~
 8 ~~THE MATTER.~~

9 [(d)] ~~(G)~~ (F) (1) The [Commission] SENTENCING COURT shall hear and
 10 adjudicate a petition for discharge from [extended] LIFETIME sexual offender [parole]
 11 supervision [from a registrant].

12 (2) A [registrant] PERSON may file a petition for discharge after
 13 serving at least ~~3~~ 5 years of extended sexual offender [parole] supervision.

14 (3) If a petition for discharge is denied, a [registrant] PERSON may
 15 not renew the petition for a minimum of 1 year.

16 (4) A petition for discharge shall include:

17 (i) a risk assessment of the [registrant] PERSON conducted by
 18 a [certified] sexual offender treatment provider within 3 months before the date of the
 19 filing of the petition; and

20 (ii) a recommendation regarding the discharge of the
 21 [registrant] PERSON from the sexual offender management team.

22 (5) (I) The [Commission] SENTENCING COURT MAY NOT DENY A
 23 PETITION FOR DISCHARGE WITHOUT A HEARING.

24 (II) THE COURT may not discharge a [registrant] PERSON from
 25 [extended] LIFETIME sexual offender [parole] supervision unless the [Commission
 26 determines] COURT MAKES A FINDING ON THE RECORD that the petitioner ~~no~~
 27 ~~longer poses an unacceptable risk to community safety~~ IS NO LONGER A DANGER TO
 28 SELF OR OTHERS.

29 (6) (I) THE JUDGE WHO ORIGINALLY IMPOSED THE LIFETIME
 30 SEXUAL OFFENDER SUPERVISION SHALL HEAR A PETITION FOR DISCHARGE.

1 **(ii) IF THE JUDGE HAS BEEN REMOVED FROM OFFICE, HAS**
2 **DIED OR RESIGNED, OR IS OTHERWISE INCAPACITATED, ANOTHER JUDGE MAY**
3 **ACT IN THE MATTER.**

4 ~~**(c) PROCEEDINGS UNDER THIS SECTION ARE A SUBSEQUENT**~~
5 ~~**PROCEEDING UNDER § 11-503(A) OF THIS ARTICLE.**~~

6 **[(e) The Commission shall have all of the powers set forth in § 7-205 of the**
7 **Correctional Services Article for the purpose of carrying out the duties of the**
8 **Commission under this subtitle.**

9 **(f) The Commission shall appoint an administrator to coordinate the**
10 **requirements of extended sexual offender parole supervision under this subtitle.]**

11 11-725.

12 **(a) Under the supervision of the Division of Parole and Probation, a sexual**
13 **offender management team shall conduct [extended] LIFETIME sexual offender**
14 **[parole] supervision and the supervision of probation, parole, or mandatory release of**
15 **a [registrant] PERSON subject to [extended] LIFETIME sexual offender [parole]**
16 **supervision.**

17 **(b) A sexual offender management team:**

18 **(1) consists of:**

19 **(i) a specially trained parole AND PROBATION agent; and**

20 **(ii) a representative of a [certified sex offender treatment**
21 **provider] SEXUAL OFFENDER TREATMENT PROGRAM OR PROVIDER; and**

22 **(2) may include:**

23 **(i) victim advocates OR VICTIM SERVICE PROVIDERS WITH**
24 **RECOGNIZED EXPERTISE IN SEXUAL ABUSE AND VICTIMIZATION;**

25 **(ii) faith counselors;**

26 **(iii) employment counselors;**

27 **(iv) community leaders; [and]**

28 **(v) a [polygrapher] POLYGRAPH EXAMINER WITH**
29 **RECOGNIZED EXPERTISE IN SEXUAL OFFENDER-SPECIFIC POLYGRAPH**
30 **EXAMINATION;**

- 1 (VI) A LAW ENFORCEMENT OFFICER;
- 2 (VII) AN ASSISTANT STATE’S ATTORNEY;
- 3 (VIII) AN ASSISTANT PUBLIC DEFENDER; AND
- 4 (IX) A FOREIGN OR SIGN LANGUAGE INTERPRETER.

5 (c) (1) A sexual offender management team shall submit a progress report
6 on each [registrant] **PERSON UNDER SUPERVISION** to the [Commission]
7 **SENTENCING COURT, OR JUVENILE COURT IN THE CASE OF A PERSON WHO IS**
8 **REQUIRED TO REGISTER UNDER § 11-704(C) OF THIS SUBTITLE,** once every 6
9 months.

10 (2) Unless disclosure of a report would be in violation of laws
11 regarding confidentiality of treatment records, a sexual offender management team
12 shall provide copies of each progress report to local law enforcement units of the
13 county in which the [registrant] **PERSON** resides [or where a sexual offender who is
14 not a resident of the State will work or attend school].

15 11-726.

16 The [Commission, with the advice of the Sexual Offender Advisory Board
17 established under § 1-401 of the Public Safety Article,] **DEPARTMENT OF PUBLIC**
18 **SAFETY AND CORRECTIONAL SERVICES** shall adopt regulations necessary to carry
19 out the duties of the [Commission under § 11-724 of] **DEPARTMENT RELATING TO**
20 **LIFETIME SEXUAL OFFENDER SUPERVISION UNDER** this subtitle.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2010.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.